HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.10760 of 1998

25.6.2007

Between

M.Tata Rao ..Petitioner

AND

Managing Director, A.P. Scheduled Caste Cooperative Society Limited, Hyderabad and others ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.10760 of 1998

The essential grievance ventilated by the writ petitioner in this case is that the respondent Corporation had not sanctioned him the salary and allowances payable to the post of Assistant Engineer though he had been asked to perform the duties and responsibilities attached to the said post. The writ petitioner had also prayed for the relief of regularization of his services, but however, Smt.Marie Desai, learned counsel appearing for the writ petitioner had realized that a similar issue arising out of the scheme of regularization contemplated by the State Government through its G.O.Ms.No.212 is still receiving the attention of the Supreme Court and therefore, she has not pressed the claim in that regard. But however, she has contended that there is no justification whatsoever for not paying the salary and allowances attached to the post of Assistant Engineer, which duties and responsibilities have been performed by the writ petitioner, pursuant to the orders passed by the District Collector and Chairman, the second respondent on 30.11.1988. It is not in dispute that the District Collector doubles up as the Chairman of the District Scheduled Caste Cooperative Society Limited as well. Therefore, he has passed orders on 30.11.1988 placing the writ petitioner who was working as Work Inspector as incahrge of the post of Assistant Engineer against an existing vacancy in the Sub Division at Razole and pursuant to these orders, the writ

petitioner has been continuously discharging the duties of the Assistant Engineer ever since.

The learned Standing Counsel for the first respondent -- Sri M.Gangaram obtained latest instructions in the matter and reports that the District Collector, East Godavari had not obtained prior permission of the Managing Director before passing the orders on 30.11.1988 and therefore, the writ petitioner is not entitled to any benefits arising out of such an order passed by the District Collector. But however, Sri Gangaram fairly submitted that the Managing Director had passed orders on 24.2.2006 placing the writ petitioner as incharge Assistant Engineer of the same Sub Division at Razole. A copy of the said proceedings has been placed on record. He further submits that the first respondent Corporation which is not being provided with adequate financial and infrastructural facilities by the State, is not in a position to make regular recruitment against various posts available with it and with a view to attend to the works that are being performed or entrusted by the Corporation, the Work Inspectors are being placed in charge of such positions of the Assistant Engineer etc.,

When once, it is not in dispute that the writ petitioner had performed the duties for considerably long period, it is only fair and appropriate that the wages be paid which are normally paid to a regular incumbent on that post. A stop gap arrangement for a short period perhaps may not result in an obligation for payment of the salary and allowances attached to the higher post by the very nature of the duration of such engagement, but however, if the incharge arrangement which is considered

initially to be a stop gap arrangement, is continued for long periods, there can never be any justification to deny the right to wages attached to the post, the duties of which are being performed by such men. Since this writ petition has been instituted on 16.4.1998, I consider it appropriate to direct the first and second respondents to pay the writ petitioner the salary and allowances attached to the post of Assistant Engineer duly deducting the payments already made by them to the writ petitioner within a period of four months, at any rate not later than 31.10.2007.

With this, the writ petition stands disposed of. No costs.

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NOOTY RAMAMOHANA RAO.J.

Note: Furnish copy of this
order within seven days.
(bo)
25.6.2007
psr